

Capital Gains Tax advantages for spouses

It is fairly common knowledge that the UK tax system is biased in favour of married couples or those partners who have entered into a formal civil partnership.

From 2 December 2019, the Civil Partnership (Opposite Sex Couples) Regulations 2019 came into effect in England and Wales allowing opposite sex couples to enter into a Civil Partnership for the first time.

Transfers of chargeable assets for CGT purposes are exempt between spouses and civil partners. Also, the annual exemption is available to both parties. This combination means that couples may be able to share the gain on a disposal of assets and reduce their overall CGT charge.

This strategy, of transferring partial ownership to a spouse (or civil partner), can also reduce an overall CGT charge if the transferring partner/spouse is due to pay CGT at the higher 20% or 28% rate (as their gains fall to be taxed in the higher rate tax band) and the receiving partner/spouse would only be liable to pay CGT at the lower 10% or 18% (as their share of a transferred gain would fall into their free basic rate band).

The 10% and 20% rates have applied from April 2016, but do not apply to disposals of residential property or carried interest – for these latter items, disposals are taxed at 18% to 28%, dependent on where the gains sit in the basic or higher rates bands. *However, if the sale is of your main private residence then Private Residence Relief (PPR) would normally apply which may exempt all or part of the CGT that arises.*

Please note that from 6 April 2020, any CGT due on the sale of a residential property by a UK resident will need to be reported and paid within 30 days of the completion of the sale transaction.

And don't forget, CGT is assessed and payable as part of your self-assessment. Any tax payable for 2019-20 will be due for payment 31 January 2021. On the same day you will also have to pay any other underpayment of Income Tax for 2019-20 and your first payment on account for 2020-21.

On the other side of the coin, January is unfortunately the most common month for couples to contemplate divorce. Although this may be a distressing time, from a tax point of view this leaves very little time before the 5 April deadline. In order to have enough time to transfer assets free of any CGT and to finalise settlements, separation at the beginning of the tax year is more financially viable.

If you own assets that are subject to CGT on disposal and you, and possibly your spouse, are struggling to fully utilise your CGT annual exemption or would like to minimise any CGT payable - contact your accountant to discuss your options.

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